

§ 143B-435.1. Clawbacks.

(a) **Clawback Defined.** – For the purpose of this Article, a clawback is a requirement that all or part of an economic development incentive will be returned or forfeited if the recipient business does not fulfill its responsibilities under the incentive law, contract, or both.

(b) **Findings.** – The General Assembly finds that in order for a clawback to be effective, there must be monitoring and reporting regarding the business's performance of its responsibilities and a mechanism for obtaining repayment if the clawback requiring the return of previously disbursed funding is triggered. Clawback provisions are essential to protect the State's investment in a private business and ensure that the public benefits from the incentive will be secured.

(c) **Catalog.** – The Department of Commerce shall catalog all clawbacks in State and federal programs it administers, whether provided by statute, by rule, or under a contract. The catalog must include a description of each clawback, the program to which it applies, and a citation to its source. The Department shall publish the catalog on its Web site and update it every six months.

(d) **Report.** – By April 1 and October 1 of each year, the Department of Commerce shall report to the Revenue Laws Study Committee, the the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources, and the Joint Legislative Economic Development and Global Engagement Oversight Committee, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division of the Legislative Services Commission on (i) all clawbacks that have been triggered under the One North Carolina Fund established pursuant to G.S. 143B-437.71, the Job Development Investment Grant Program established pursuant to G.S. 143B-437.52, Job Maintenance and Capital Development Fund established pursuant to G.S. 143B-437.012, the Utility Account established pursuant to G.S. 143B-437.01, and the Site Infrastructure Fund established pursuant to G.S. 143B-437.02 and (ii) its progress on obtaining repayments. The report must include the name of each business, the event that triggered the clawback, and the amount forfeited or to be repaid. (2007-515, s. 6; 2012-142, s. 13.4(b); 2013-360, s. 15.18(d); 2017-57, s. 14.1(s).)